

REMARKS

Before entry of this Amendment and Response, the status of the application according to the pending Office action is as follows:

- Claims 6-10, 12-18, and 20-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,122,847 to Craig (hereinafter “Craig”).
- Claims 11, 19, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Craig.
- Claims 6-25 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-20 of U.S. Patent No. 6,984,037 to Bleau (hereinafter “Bleau”).

With this Amendment and Response, Applicant hereby amends claims 6-25. Support for the amendments can be found in the Specification as filed, at least at p. 16, ll. 11-26; p. 17, l. 17 – p. 18, l. 12; and FIGS. 12-15. No new matter is added thereby.

1. Claims 6-10, 12-18, and 20-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Craig. Applicant respectfully traverses the rejection, as applied to the claims, as amended.

Craig appears to describe a protective eyeshield 10 for surgical patients, including a face mask member 12 and transparent eye covers 20. Craig, col. 2, ll. 5, 38. In one embodiment, the transparent eye covers 20 are bonded to the inner surface 26 of the mask member 12, utilizing a flange 28. Craig, col. 2, ll. 37-35; FIG. 2. An adhesive is utilized between the flange 28 and the inner surface 26 of the mask member 12 to secure the eye cover 20; a tape with contact adhesive on both sides may also help secure the eye cover 20. Craig, col. 2, ll. 42-45, 51-64. The adhesive is present along the entire inner surface 26 of the mask member 12, so as to fully secure the eyeshield 10 to the patient’s face. Col. 3, ll. 16-20. The eyeshield 10 of Craig is designed to be utilized during surgery, to shield the patient’s eyes from the intrusion of liquid or foreign

objects. Craig, col. 1, ll. 28-33. In one example, Craig discloses the risks attendant with a tonsillectomy, where blood may flow into the eyes, possibly injuring the eye membrane. Craig, col. 1, ll. 24-28. Presumably, this blood would flow from the patient's mouth, along the face, and into the eyes. Craig notes that this risk may be obviated by a surgeon or anesthesiologist adhering the eyeshield 10 on the patient's face, "by pressing . . . against the patient's forehead, around the eyes, temples, *and* nose bridge, so that it is firmly secured." Craig, col. 4, ll. 35-37 (emphasis added). This description appears to require sealing the eyeshield completely around the patient's eyes. Indeed, claim 1 of Craig recites eyewear comprising "adhesive *entirely around the peripheral portion* [of the inner surface] for securing the eye shield to the patient." Craig, col. 4, ll. 61-63 (emphasis added).

In contrast, Applicant claims, in amended independent claims 6, 14, and 22, eyewear comprising, *inter alia*, a sealing frame adjacent the lateral edges having a second portion that adheres to a user's face such that, "when adhered to a user's face, free air movement between the lens and a user's face and surrounding environment is allowed." Applicant respectfully submits that Craig does not teach, at a minimum, eyewear comprising a sealing frame adjacent the lateral edges having a second portion that adheres to a user's face such that, "when adhered to a user's face, *free air movement between the lens and a user's face and surrounding environment is allowed.*" Instead, Craig appears to disclose adhering an eyeshield *entirely around the eye* to completely seal the eyes from the intrusion of liquid and other objects. So important is isolating the eyes from the outside environment that Craig *specifically claims* eyewear comprising "adhesive *entirely around the peripheral portion* [of the inner surface] for securing the eye shield to the patient."

Accordingly, Applicant respectfully submits that amended claims 6, 14, and 22 are patentable over Craig under 35 U.S.C. § 102(b). As claims 7-10, 12, 13, 15-18, 20, 21, 23, and 24 depend from either claim 6, 14, or 22, and include all respective limitations thereof, Applicant respectfully submits that those claims are patentable as well. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 6-10, 12-18, and 20-24 under 35 U.S.C. § 102(b) in view of Craig, and requests passage of the claims to allowance.

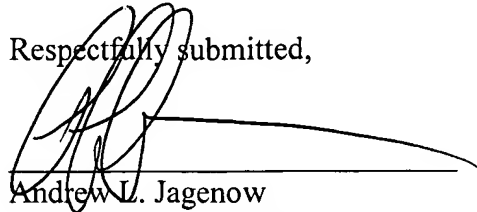
2. Claims 11, 19, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Craig. Applicant respectfully traverses the rejection, as applied to the claims, as amended. Claims 11, 19, and 25 depend from, and include all the limitations of, claims 6, 14, and 22, which Craig fails to anticipate. Moreover, Applicant respectfully submits that Craig fails to render obvious amended claims 6, 14, and 22. Given the apparent importance placed on isolating the eye from the outside environment, as discussed above, Applicant respectfully submits that there is no motivation to modify Craig to obtain the subject matter claimed in amended claims 6, 14, and 22. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 11, 19, and 25 under 35 U.S.C. § 103(a) in view of Craig, and requests passage of the claims to allowance.

3. Claims 6-25 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-20 of Bleau. Applicant requests that this rejection be held in abeyance until such time as a determination of otherwise allowable subject matter in the instant application is made. Applicant will consider filing a terminal disclaimer, should one be necessary, at the appropriate time.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration, withdrawal of all grounds of rejection of claims 6-25, and passage of those claims to allowance. The Examiner is invited to contact Applicant's undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,



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LIBA/1722620.1